REMARKS

Upon entry of this Amendment, Claims 1-69 will remain pending in this application. By this Amendment, claims 6, 8, and 26 have been amended. The amended claim set is provided herewith.

Claims 8 and 26 have been amended to correct a typographical errors. Claim 6 has been amended to provide proper antecedent basis. No new matter has been added as a result of this amendment.

Claim Objections

Claims 6 and 26 have been amended in accordance with the Examiner's helpful recommendations. Withdrawal of this objection is respectfully requested.

§ 103 Rejection of the Claims

Tracey, U.S. 6,610,713, in view of Rezai, U.S. 2002/0116030

Claims 1-5, 14-24, 26-30 and 33-69 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Tracey, U.S. Patent No. 6,610,713, in view of Rezai, U.S. Patent Publication No.US2002/0116030. Applicant respectfully traverses the rejection.

Independent claims 1 and 27 of the present application recite stimulation of a sympathetic neuron to inhibit the release of a proinflammatory mediator or inhibit an inflammatory cytokine cascade.

One of skill in the art would not combine the Tracey patent and the Rezai publication to arrive at the method of present claims 1 and 27 with any reasonable expectation of success. The sympathetic (fight or flight) and parasympathetic (rest and digest) nervous system generally act in opposing fashion. Stimulation of the sympathetic system (or a neuron thereof) would be

expected to produce a result that is vastly different from stimulation of the parasympathetic system (or a neuron thereof).

According to the office action mailed 8/30/2005 (the "Office Action"), Tracey teaches a method "for inhibiting the release of a pro-inflammatory cytokine from a mammalian cell comprising stimulating a neuron (i.e. the vagus nerve) of a mammalian subject in an amount effective to inhibit the release of the pro-inflammatory cytokine." (Page 2). According to the Office Action, Rezai "discloses a method of stimulating a neuron of the sympathetic nervous system . . . to treat a variety of disorders. (Page 3). Further according to the Office Action, "it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Tracey in view of Rezai to stimulate a neuron of the sympathetic nervous system to treat a variety of physiological disorders associated with the entire autonomic nervous system." (Page 3). However, as previously stated, it would not have been obvious to modify the teachings of the Tracey patent in view of the Rezai publication to arrive at the method in present claims 1 and 27. Stated otherwise, one of skill in the art would not look to stimulating a neuron of the sympathetic nervous system to effectuate a physiologic change similar to one shown to occur when stimulating a neuron of the parasympathetic system. Because of the antagonistic nature of these two systems, one would not have expected that stimulating a neuron of the sympathetic nervous system would result in inhibition of the release of proinflammatory mediators or inhibition an inflammatory cytokine cascade in a manner similar to stimulation of a parasympathetic neuron. In fact, one would have expected an *increased* inflammatory response if reviewing the patent and publication cited in the Office Action. The results presented in the present application are unexpected and non-obvious. Accordingly, the claims 1 (and its dependent claims 2-5, 14-24, and 26) and 27 (and its dependent claims 28-30 and 33-69) are not rendered obvious by the combination of the Tracey patent in view of the Rezai publication.

Withdrawal of the rejection is respectfully requested.

Tracy, U.S. 6,610,713, in view of Rezai, U.S. 2002/0116030 and Gross, et al. U.S. 2003/0045909

Claims 6-13, 25 and 31-32 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Tracy, U.S. Patent No. 6,610,713, in view of Rezai, U.S. Patent Publication No.US2002/0116030 and Gross, et al. U.S. Patent Publication No. US2003/0045909. Applicant respectfully traverses the rejection.

The Office Action states that the Gross publication indirectly teaches stimulation of the splenic nerve and that it would therefore have been obvious to modify the teachings of Tracey in view of Rezai and Gross to stimulate a neuron of the splenic nerve to inhibit the release of a proinflammatory mediator or inhibit an inflammatory cytokine cascade. As stated above, one of skill in the art would not have any reasonable expectation of success that stimulating a neuron of the sympathetic splenic nerve would result in a physiological effect similar to stimulation of a parasympathetic nerve (i.e., the vagal nerve) as shown by Tracey. Gross does nothing to overcome the basic flaw in the combination of the Tracey and Rezai references. Accordingly, withdrawal of the rejection is respectfully requested.

Conclusion

In view of the foregoing amendments, Applicants respectfully request reconsideration and allowance of the claims as all rejections have been overcome. Early notice of allowability is kindly requested.

The Examiner is respectfully requested to contact the undersigned by telephone at 763.505.0405 or by E-mail at keith.m.campbell@medtronic.com with any questions or comments.

Please grant any extension of time, if necessary for entry of this paper, and charge any fee due for such extension or any other fee required in connection with this paper to Deposit Account No. 13-2546.

Respectfully submitted,

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